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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,278	11/28/2001	David Guedalia	NMS03-14	2332
22468	7590	10/07/2005	EXAMINER	
CHAPIN & HUANG L.L.C. WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE WESTBOROUGH, MA 01581			PHAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/996,278

Applicant(s)

GUEDALIA ET AL.

Examiner

Joseph T. Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5,6,8,10,11,15,16,18,20-22,24-27,30-32,34-37 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,6,8,10,11,15,16,18,20-22,24-27,30-32,34-37 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 5-6, 8, 10-11, 15-16, 18, 20-22, 24-27, 30-32, 34-37, and 40 rejected under 35 U.S.C. 102(e) as being anticipated by Hinderks et al. Pub No.2002/0067730 A1.**

Regarding claims 1 and 11, Hinderks teaches a system and method for providing enhanced quality audio streaming, the system and method comprising:  
an audio streaming server providing an audio stream, a client including a buffer storing at least portions of said audio stream received from said audio streaming server,  
a buffer status sensor operative to monitor the contents of said buffer and a client audio output enhancer operative in response to an output from said buffer status sensor for providing a modified audio stream output including inserted pre-recorded informational audio segments which were not received from said audio streaming server(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 5 and 15, Hinderks teaches a system and method according to

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claims 2 and 12 and wherein said inserted audio segments comprise advertisements (Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 6 and 16, Hinderks teaches a system and method according to claims 1 and 11 and wherein said client comprises a telephone(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 8 and 18, Hinderks teaches a system and method according to claims 1 and 11 wherein said client comprises a telephone and an IVR(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 10 and 20, Hinderks teaches a system and method according to claims 1 and 11 and wherein said client provides a real time output(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claim 21 and 31, Hinderks teaches a system and method for providing sophisticated seeking in an audio stream, the system and method comprising an audio streaming server providing an audio stream an audio sampler, intermittently sampling portions of said audio stream, an audio sampling store, storing said portions sampled by said audio sampler; and an audio stream portion navigating seeker operative to sequentially render said portions; and inserting at least one informational audible tone among said portions rendered thereby(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 22 and 32, Hinderks teaches a system and method according to claims 21 and 31 operative to sample complete phrases(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

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Regarding claims 24 and 34, Hinderks teaches a system and method according to claims 21 and 31 and wherein said audio sampler is voice command responsive(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 25 and 35, Hinderks teaches a system and method according to claims 21 and 31 and wherein said audio sampler samples portions which are selected generally periodically(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 26 and 36, Hinderks teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to render via a telephone(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 27 and 37, Hinderks teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to render via an IVR and a telephone(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

Regarding claims 30 and 40, Hinderks teaches a system and method according to claims 21 and 31 and also comprising a user operative, seeking responsive audio stream renderer, operative to render the audio stream beginning from a sampled portion selected by a user(Fig.2, Fig.6, page 2 para 0010, page 4 para 0030,0034, 0037-0038, page 5 para 0043).

***Response to Arguments***

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2. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP

September 30, 2005



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